

GERTRUDE MARY DAIGER }

VS.

FREDERICK DAIGER. }

DECEMBER TERM, 1850.

[ALIMONY—DIVORCE A MENSA ET THORO.]

UPON the application of the wife, who was separated from her husband, and had no means of living, or of defraying the expenses of her suit for a divorce, for alimony *pendente lite*, and money to carry on her suit, the practice is to make the allowance, without an examination into the merits of the cause.

The rule is inflexible, that under all circumstances, and entirely irrespective of the merits, the marriage being proved, or admitted, the wife will be allowed temporary alimony, and money to prosecute or defend the suit, when separated from her husband, unless she has an income of her own sufficient for those purposes.

Upon the application, by the wife, for a divorce *a mensa et thoro*, under the 3d section of the act of 1841, ch. 262, upon the charge of cruelty of treatment, it will not be sufficient for her to show mere petulance, and rudeness, and sallies of passion on the part of the husband, but there must be a series of acts of personal violence, or danger of life, limb, or health, to justify a decree of separation.

Great caution and discrimination ought to be used upon this subject, and even if acts of personal violence are shown, it is proper for the court to consider whether they were without cause or for trivial causes, or the result of provoking language on the part of the wife, pushing the patience of the husband to extremity.

[The petition in this case, for a divorce *a mensa et thoro*, was filed in the equity side of Baltimore County Court, on the 31st of October, 1850. It alleges the marriage of the petitioner with the defendant on the 17th of February, 1848, that since said marriage, the petitioner has been a correct, faithful, and irreproachable wife. That her said husband, unmindful of his duties and obligations, has habitually treated her with cruelty and violence. The petition then sets forth specific acts of cruel treatment, such as threatening to cut her throat with an open razor, striking her severe blows with his clenched hands and fists, and on several occasions, knocking her down, &c. That in consequence of this cruel treatment, she was compelled some time in the winter of 1850, to leave the house, and society of her said husband. The prayer is for a divorce *a mensa*, alimony, &c.]